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3 **UNITED STATES DISTRICT COURT**
4 **NORTHERN DISTRICT OF CALIFORNIA**
5 **SAN JOSE DIVISION**
6

7 ABHIJIT PRASAD,

8 Plaintiff,

9 v.

10 GAIL SIMMONS, et al.,

11 Defendants.

Case No. [15-cv-04933-BLF](#)

**ORDER GRANTING MOTIONS TO
SEAL**

[ECF 122, 125]

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13 Before the Court are the parties’ administrative motions to file under seal portions of their
14 briefing and exhibits in connection with Defendants’ motion for summary judgment (ECF 84) and
15 Plaintiff’s motion for summary judgment (ECF 101). ECF 122, 125. For the reasons stated
16 below, the motions are GRANTED.

17 **I. LEGAL STANDARD**

18 “Historically, courts have recognized a ‘general right to inspect and copy public records
19 and documents, including judicial records and documents.’” *Kamakana v. City & Cty. Of*
20 *Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435
21 U.S. 589, 597 & n. 7 (1978)). Accordingly, when considering a sealing request, “a ‘strong
22 presumption in favor of access’ is the starting point.” *Id.* (quoting *Foltz v. State Farm Mut. Auto.*
23 *Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)). Parties seeking to seal judicial records relating to
24 motions that are “more than tangentially related to the underlying cause of action” bear the burden
25 of overcoming the presumption with “compelling reasons” that outweigh the general history of
26 access and the public policies favoring disclosure. *Ctr. for Auto Safety v. Chrysler Grp.*, 809 F.3d
27 1092, 1099 (9th Cir. 2016); *Kamakana*, 447 F.3d at 1178–79.

28 However, “while protecting the public’s interest in access to the courts, we must remain

mindful of the parties’ right to access those same courts upon terms which will not unduly harm their competitive interest.” *Apple Inc. v. Samsung Elecs. Co., Ltd.*, 727 F.3d 1214, 1228–29 (Fed. Cir. 2013). Records attached to motions that are “not related, or only tangentially related, to the merits of a case” therefore are not subject to the strong presumption of access. *Ctr. for Auto Safety*, 809 F.3d at 1099; *see also Kamakana*, 447 F.3d at 1179 (“[T]he public has less of a need for access to court records attached only to non-dispositive motions because those documents are often unrelated, or only tangentially related, to the underlying cause of action.”). Parties moving to seal the documents attached to such motions must meet the lower “good cause” standard of Rule 26(c). *Kamakana*, 447 F.3d at 1179 (internal quotations and citations omitted). This standard requires a “particularized showing,” *id.*, that “specific prejudice or harm will result” if the information is disclosed. *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1210–11 (9th Cir. 2002); *see Fed. R. Civ. P. 26(c)*. “Broad allegations of harm, unsubstantiated by specific examples of articulated reasoning” will not suffice. *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992). A protective order sealing the documents during discovery may reflect the court’s previous determination that good cause exists to keep the documents sealed, *see Kamakana*, 447 F.3d at 1179–80, but a blanket protective order that allows the parties to designate confidential documents does not provide sufficient judicial scrutiny to determine whether each particular document should remain sealed. *See Civ. L.R. 79-5(d)(1)(A)* (“Reference to a stipulation or protective order that allows a party to designate certain documents as confidential is not sufficient to establish that a document, or portions thereof, are sealable.”).

In addition to making particularized showings of good cause, parties moving to seal documents must comply with the procedures established by Civ. L.R. 79-5. Pursuant to Civ. L.R. 79-5(b), a sealing order is appropriate only upon a request that establishes the document is “sealable,” or “privileged or protectable as a trade secret or otherwise entitled to protection under the law.” “The request must be narrowly tailored to seek sealing only of sealable material, and must conform with Civil L.R. 79-5(d).” Civ. L.R. 79-5(b). In part, Civ. L.R. 79-5(d) requires the submitting party to attach a “proposed order that is narrowly tailored to seal only the sealable material” which “lists in table format each document or portion thereof that is sought to be

sealed,” Civ. L.R. 79-5(d)(1)(b), and an “unredacted version of the document” that indicates “by highlighting or other clear method, the portions of the document that have been omitted from the redacted version.” Civ. L.R. 79-5(d)(1)(d). “Within 4 days of the filing of the Administrative Motion to File Under Seal, the Designating Party must file a declaration as required by subsection 79-5(d)(1)(A) establishing that all of the designated material is sealable.” Civ. L.R. 79-5(e)(1).

II. DISCUSSION

The Court finds that the parties have articulated compelling reasons to seal the submitted documents. The Court’s rulings on the sealing requests are set forth below.

A. ECF 122 re Plaintiff’s Motion for Summary Judgment

<u>ECF No.</u>	<u>Document to be Sealed:</u>	<u>Result</u>	<u>Reasoning</u>
101-2 107-2	Exhibit 5D to the Weissburg Decl. – Child Abuse Central Index records of Plaintiff	GRANTED as to redacted portions.	Contains Plaintiff’s personally identifying information. Weissburg Decl. ISO Sealing ¶ 9, ECF 122-1. Thus, compelling reasons exist to seal the document.
101-2 107-2	Exhibit 5F to the Weissburg Decl. – Child Abuse Central Index records of Plaintiff	GRANTED as to entire document.	Contains minors’ personally identifying information, as well as allegations of sexual abuse of minors. Weissburg Decl. ISO Sealing ¶ 9. Thus, compelling reasons exist to seal the document.
101-2 107-2	Exhibit 5G to the Weissburg Decl. – CWS/CMS screenshot of Plaintiff	GRANTED as to redacted portions.	Contains Plaintiff’s personally identifying information. Weissburg Decl. ISO Sealing ¶ 9. Thus, compelling reasons exist to seal the document.
101-2 102-1 107-2 108-1	Exhibit 10A to the Weissburg Decl. – California DOJ response to subpoena	GRANTED as to redacted portions.	Contains minors’ personally identifying information, as well as personally identifying information of the Plaintiff. Weissburg Decl. ISO Sealing ¶ 9. Thus, compelling reasons exist to seal the document.
101-2 102-1 107-2 108-1	Exhibit 10B to the Weissburg Decl. – Child Abuse or Severe Neglect Indexing Form for Plaintiff;	GRANTED as to redacted portions.	Contains minors’ personally identifying information, as well as personally identifying information of the Plaintiff. Weissburg Decl. ISO Sealing ¶ 9. Thus, compelling reasons exist to seal.

<u>ECF No.</u>	<u>Document to be Sealed:</u>	<u>Result</u>	<u>Reasoning</u>
101-2 102-1 107-2 108-1	Exhibit 10C to the Weissburg Decl. – Child Abuse Central Index Self Inquiry Request for Plaintiff.	GRANTED.	Contains Plaintiff’s personally identifying information. Weissburg Decl. ISO Sealing ¶ 9. Thus, compelling reasons exist to seal the document.

B. ECF 125 re Defendants’ Motion for Summary Judgment

<u>ECF No.</u>	<u>Document to be Sealed:</u>	<u>Result</u>	<u>Reasoning</u>
94	Exhibit O to the Harrison Taylor Declaration	GRANTED as to redacted portions.	Contains minors’ personally identifying information. Schmid Decl. ISO Sealing ¶ 2, ECF 125-1. Thus, compelling reasons exist to seal the document.
95	Exhibit P to the Judy McKellar Declaration	GRANTED as to redacted portions.	Contains minors’ personally identifying information. Schmid Decl. ¶ 2. Thus, compelling reasons exist to seal the document.

III. CONCLUSION

The motions to seal at ECF 122 and 125 are GRANTED.

IT IS SO ORDERED.

Dated: February 8, 2019



BETH LABSON FREEMAN
United States District Judge